

Application Serial No. 10/542,307  
Response to Office Action dated March 31, 2009

PATENT  
Docket: CU-4299

### REMARKS

At the mailing of the Office Action, claims 1-24 are pending and are rejected. The Applicant believes that this amendment is responsive to the Office Action and overcomes the rejections.

The Examiner objected to the Abstract of the Application. The Abstract section has been amended herein. The Amendments to the Abstract can be viewed in the Amendments section of this paper beginning on page 3. The Applicant submits that the amendment is fully responsive to the objection and requests that the Examiner withdraw this objection.

#### Rejection of Claims 1-8 under 35 U.S.C. §102.

The Examiner rejected Claims 1-8 under 35 U.S.C. §102(b) as anticipated by Suffa et al. (WO 95/26306).

The Applicant respectfully disagrees and submits that the claims are novel.

Suffa discloses a closure 1 for a container with a sealing element 2 formed by a flexible membrane 2 adapted to equalize an underpressure in the interior of the closure 1. For this purpose, the edge region of the membrane 2 is lifted from a rest leg 10 at an underpressure in the closure 1, thereby releasing air passages 25. (See German text p. 8 ll. 275-278 or English translation p. 2 ll. 21). The rest leg 10 is formed as an annular projection of an inner plate 9. (See German text p. 6 ll. 177-180 or English translation p. 2, l. 21). The inner plate 9 moreover contains a space 12 confined by the rest leg 10 and a projection of a transition bar 8. The groove wall or the rest leg 10 has a rest bulge 11 for a snap fit with a support ring 7 projecting into space 12. (See German text p. 6 ll. 181-185 or English translation p. 2 ll. 22-24).

On the other hand, the claimed air valve 13 comprises a ring 11 inserted or insertable into a groove 24 with at least one flexible groove wall 26 designed as an

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annular membrane; the groove wall 26 is biased against the ring 11 so that an air entry opening 20 is sealed at equal pressures on either side and is only released at a certain pressure in the interior of the lid.

This is clearly different from the teachings of Suffa according to which the support ring 7 is secured on an outer side of a rest leg 10 through a snapping on a rest bulge 11; whereas the membrane 2 is arranged on the inner side of the rest leg 10. Accordingly, space 12 and the membrane 2 are distant from each other and space 12 is not involved in sealing and releasing the air passage 25 adjacent to membrane 2. According to Suffa, the air passage 25 is instead released by a deflection of the edge area of the membrane 2 away from the rest leg 10.

The groove wall or rest leg 10 according to Suffa would certainly not be capable of fulfilling the same function as the groove wall 26 according to the present invention as rest leg 10 is adapted to ensure a stable rest of the membrane 2 and the support ring 7, respectively, and thus needs to be made of a hard material. On the other hand, the groove wall 26 according to the present invention is designed as an annular membrane resilient enough to be lifted from its seat at a certain pressure in the lid. Such a design, however, would even be disadvantageous for the groove wall or rest leg 10 according to Suffa, as this would weaken the snap fit for the support ring 7 and the rest for the membrane 2.

Accordingly, pending claim 1 defines a novel air valve which is not anticipated by Suffa. The Applicant respectfully submits that claim 1 is allowable and respectfully requests that the Examiner withdraw this rejection under 35 U.S.C. §102(b). Since claims 2-8 each depend from allowable claim 1, the Applicant respectfully requests that the remarks made over claim 1 be both reflected in the dependant claims and overcome the rejection thereof. The Applicant further requests that claims 2-8 be found allowable and requests that the Examiner withdraw this rejection of claims 2-8 as well.

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**Rejection of Claims 9-24 under 35 U.S.C. § 103(a).**

The Examiner asserts an obviousness rejection of Claims 9-10 under 35 U.S.C. § 103(a), as being unpatentable over Suffa in view of Croyle (U.S. 3,321,114); claims 11-17 and 22 as unpatentable over Suffa in view of Esposito Jr. (U.S. 3,232,499); claims 18-19 over Suffa in view of Esposito Jr. and further in view of Meins (U.S. 4,415,097); claim 20 as unpatentable over Suffa in view of Esposito Jr. and further in view of Croyle; claim 21 as unpatentable over Suffa in view of Esposito Jr. and further in view of Laauwe (U.S. 4,747,518); and claims 23-24 as unpatentable in view of Suffa in view of Esposito Jr. and further in view of Baudin et al. (U.S. 5,924,605).

The Applicant respectfully disagrees and submits that claims 9-24 are non-obvious and patentable. The above listed references have only been used to reject the dependant claims and do not cure the deficit found in Suffa as it relates to independent claim 1. Accordingly, it remains that all of the features of claim 1 are not taught or suggested by the combination of references, and therefore, claim 1 is non-obvious and allowable.

It is axiomatic that if an independent claim is allowable, a claim depending therefrom is likewise allowable. The Applicant submits that since claims 9-24 depend from allowable claim 1, claims 9-24 are likewise allowable. The Applicant further notes that the additional features found in the dependant claims serve to further distinguish the combination from the prior art. The Applicant respectfully requests, therefore, that the remarks over claim 1 be both reflected in the dependant claims and overcome the rejection thereof. The Applicant submits that claims 9-24 are non-obvious and allowable, and respectfully requests that the Examiner withdraw this rejection of the claims.

**CONCLUSIONS**

The Applicant respectfully contends that all conditions of patentability are met in the pending claims and requests that the amendments to the specification be entered into the record. The Applicant respectfully submits that this application should be in condition for allowance and respectfully requests favorable consideration.

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Respectfully Submitted,

6/26/2009



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